

POLICE/SHERIFF'S DEPARTMENT		GENERAL ORDERS	
SUBJECT: Juvenile Procedures		NUMBER: 2-29	
EFFECTIVE DATE: July 1, 1999		REVIEW DATE:	
AMENDS/SUPERSEDES: GO 2-29, January 1988		APPROVED: _____ Chief of Police/Sheriff	
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NOTE

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

INDEX WORDS

Confinement of juveniles
Custody; of juveniles
Fingerprints; of juveniles
Incorrigible juvenile: see Status offenses
Information; confidentiality
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I. POLICY

The department's interests concerning juvenile offenders reflect those of the community: to prevent and control juvenile delinquency. The department expects officers to handle juveniles consistent with common sense and the dictates of state law. The department's policy includes the identification, apprehension, and conviction of juveniles charged with crimes. The best interests of juveniles and the community, however, dictate a limited

application of our arrest powers against juveniles who are charged with status offenses. Accordingly, officers may handle errant juveniles informally, particularly status offenders, those in need of protection, and those suspected of committing minor criminal offenses. The authority to carry out the provisions of this order derive from *Virginia Code* §§ 16.1-246, 16.1-247, and 16.1-299. In case of minor or status offenses, officers should divert juveniles from the formal criminal justice process, and instead choose community referral.

II. PURPOSE

To establish guidelines and procedures for handling juveniles who are in need of protection, in violation of status offenses, and those charged with criminal offenses.

III. DEFINITIONS

A. Child, juvenile, minor

A person who is less than eighteen years of age. Physical appearance, maturity, marriage, or the seriousness of an offense does not affect a juvenile's legal status. (Confer with the commonwealth's attorney on the handling of emancipated juveniles.)

B. Delinquent acts

Acts designated as a violation of a law of the Commonwealth of Virginia or an ordinance of any city, county, town, or federal law, but not to include status offenses. Refer to § 16.1-228.2 for a legal definition of the term.

C. Delinquent child

A child who has committed a delinquent act or an adult who had committed a delinquent act prior to his or her 18th birthday.

D. Intake officer

A juvenile probation officer who is designated by law as having the quasi-judicial authority to decide probable cause, divert the juvenile from the criminal process, or petition the court. An intake officer is normally a juvenile probation officer, per § 16.1-228.2.

E. Juvenile court

The name by which the Juvenile and Domestic Relations District Court is often called. This court is responsible for the judicial processing of juvenile offenders, and the determination of abuse and neglect cases. As a result, the judge of this court decides the propriety and legality of police handling of juveniles.

1. All juvenile offenses occurring in *[your jurisdiction]* are heard in the Juvenile and Domestic Relations District Court located at *[state location]*. Officers shall appear to prosecute their cases.

F. Person acting for a parent

A teacher, relative over the age of eighteen, or any adult willing to accept the responsibility for the juvenile.

G. Status offender

1. A juvenile who commits an act (status offense) which is unlawful only if committed by a juvenile. Examples of status offenses:
 - a. A juvenile who is subject to compulsory school attendance but is habitually absent without justification (truant).
 - b. A juvenile who is habitually disobedient to the lawful commands of parents or other responsible persons (incorrigible).
 - c. A juvenile who remains away from or who habitually deserts or abandons the family (runaway). § 16.1-228 pertains.
2. Note that some federal offenses are status offenses as well. For example, 18 *United States Code* § 922(x) makes it a federal crime for a juvenile to possess a handgun.

IV. **PROCEDURES - General**

A. Overview

1. All members of the department shall cooperate with juvenile justice and support activities. Department orders (including this one) regarding juvenile operations shall be provided to local juvenile court personnel for their review and comments and suggestions as to ways our procedures can be improved.
2. All department personnel shall thoroughly understand and practice the provisions of this order.

B. Handling of juvenile offenders - general

1. A juvenile offender shall be handled with firmness and respect: this sets the tone for the entire processing of the juvenile's case. The contact a juvenile has with law enforcement is his or her first impression of society's enforcement system. The officer's proper handling may prevent the recurrence of anti-social behavior. An officer's warning is often all that is

required to keep the juvenile from having to appear in juvenile court. Improper handling often creates the mistaken but lasting impression that all officers and other government officials are unfair, untrustworthy, and inflexible, and may result in the juvenile's complete rejection of lawful authority. See § 16.1-227 for a discussion of the purposes and objectives of juvenile justice in Virginia.

2. The juvenile justice system and laws are designed to give the child a chance to mature without bearing the stigma of a criminal record. The juvenile justice system emphasizes confidentiality of records and the privacy of an adjudicatory hearing. Terms such as "take into custody" and "not innocent" substitute for "arrest" and "guilty" to avoid giving the juvenile's behavior a criminal label. Where appropriate, officers shall reasonably try to keep juveniles out of the criminal justice system.
3. The officer may handle a juvenile either informally or formally. The options under informal handling are detailed under D below. Formal handling occurs when the juvenile is brought before the juvenile court or an intake officer for further processing. The options under formal handling are detailed under E below.
 - a. Officers shall complete all required paperwork with comprehensive information on the child, parents, complainant, and witnesses.
4. In making the decision to handle the juvenile either informally or formally, the officer shall consider the following:
 - a. Seriousness of offenses.
 - b. Prior record of child.
 - c. Child's age.
 - d. Cooperation and attitude of all parties (child, parent, victim) and the possibility of the offense being repeated.
 - e. Degree of wrongful intent, violence, premeditation, knowledge of violation.
 - f. Likelihood that the child or parent can be successfully referred to a helping agency.

C. Supervisory responsibilities - general

The supervisor shall:

1. Review and approve all paperwork by the arresting officer.
2. Immediately contact the intake officer (if the arresting officer or the supervisor determines that the juvenile in custody is innocent), relate the facts of the case, and request a decision whether to release or detain if charges are pending.

D. Informal handling

1. Informal handling includes the officer's use of the following measures:
 - a. Warning and releasing to a parent or guardian.
 - b. Requiring the parents to pick up the juvenile.
 - c. Referring the family to a community social service agency.
2. Guidelines for informal handling
 - a. Respect a juvenile's right of privacy. Information gained should be provided to others only on a "need to know" basis.
 - b. When the officer encounters a victim/complainant who demands to bring a child before the juvenile court, and the officer wishes the matter handled informally, the officer shall contact the intake officer for assistance.
 - c. Even when he or she is being handled informally, the juvenile has all the constitutional rights that an adult would have in the same situation. Officers shall decide without delay whether formal or informal handling is in order, then apply the appropriate guidelines of this order.
 - d. Even if officers handle a case informally, they may still follow-up the case at a later time or, at any time, refer the juvenile and his or her parents to an appropriate social service agency.
 - e. Officers who release juveniles after issuance of a warning shall complete a field interview card. On it, the officer shall give a complete clothing description and the circumstances of the contact.
3. Sample offenses for informal handling

Generally, first instances of the following types of offenses shall be handled informally; however, the list is not complete and officers' good judgement is important.

- a. Annoying telephone calls.
- b. Cursing and abuse.
- c. Drunkenness.
- d. Disorderly conduct.
- e. Curfew violation and other status offenses (more specific discussion of status offenses follows).

E. Formal handling

- 1. Formal handling occurs when the juvenile is taken before the juvenile court or intake officer for their decision on the proper disposition.
- 2. Generally, the following situations require formal handling of the juvenile.
 - a. Delinquent acts that if committed by an adult would be felonies.
 - b. Delinquent acts involving weapons.
 - c. Delinquent acts involving aggravated assaults and batteries.
 - d. When the police arrive at the scene of domestic violence and discover a child at risk.

F. Taking juveniles into custody

In accordance with § 16.1-246, no juvenile may be taken into immediate custody except under the following circumstances:

- 1. With a legal detention order.
- 2. When the child is alleged to be in need of services, and two conditions exist:
 - a. There is clear and substantial danger to child's life or health.
 - b. Custody is necessary to insure child's appearance before court.
- 3. When, in the arresting officer's presence, a child commits a crime and the officer believes custody is necessary for protection of the public interest.
- 4. The officer has probable cause to believe a child has committed an offense which if done by an adult would be a felony.

5. The officer has probable cause to believe a child has committed a misdemeanor offense involving shoplifting (§ 18.2-103), assault/battery, or carrying a weapon on school property (§ 18.2-308.1).
6. The officer has probable cause to believe that a child has either run away from home or is without adult supervision at such hours of the night and under such circumstances where the officer reasonably concludes that there is a clear and substantial danger to the child's welfare.
7. The officer has probable cause to believe that a person committed to the Department of Juvenile Justice as a child has run away or has escaped from a jail or detention home.
8. The officer has probable cause to believe that a child has run away from a residential facility or home where he or she had been placed by the court or an appropriate social services agency.
9. The child is believed to be in need of inpatient treatment for mental illness (§ 16.1-340).

G. General guidelines for taking juvenile into custody

1. Do not take custody of a juvenile or assume an overly authoritative position when the purpose can be accomplished by asking appropriate, permissible questions at the location of contact.
2. When stopping them on the street, detain juveniles for the briefest time that will permit the purpose of the stop to be accomplished. The decision of either formal or informal handling shall be made in a reasonable time.
3. If it is necessary to take the juvenile into custody, do so with the least possible embarrassment to the juvenile and his or her family. Unless there is special justification for doing otherwise, don't remove the juvenile from his or her home.
4. Refer to § 16.1-247 for a specific outline of duties of the arresting officer when the juvenile court offices are open or closed.
5. Regardless of the disposition of the juvenile in custody, officers shall make every reasonable attempt to notify parents or guardians and inform them of the circumstances.

[Note: Agencies may wish to outline procedures for releasing juveniles held in custody pursuant to a warrant or detention order, or pursuant to the commission of an offense when the officer has

probable cause to arrest. The procedures should outline steps to take when the court is in session and juvenile intake is open, and for when the court is not in session and juvenile intake is closed.]

H. Transportation of juveniles

1. No juvenile under 18 shall be transported in the same vehicle with adults suspected of or charged with criminal acts (§ 16.1-254 applies).
2. No juvenile who is known or believed to be under 15 years of age shall be transported in a patrol wagon.
3. See GO 2-7 and GO 2-8 for a discussion of handcuffing procedures and policy regarding transportation of prisoners.

I. Legal aspects of confinement of juveniles

1. Virginia law requires juveniles who are taken into custody to be released to a suitable parent or guardian or otherwise suitable person, after the facts have been ascertained and under certain conditions. Detention of the juvenile is permissible under the following circumstances (per § 16.1-248.1):
 - a. The juvenile has committed an act which would be a Class 1 misdemeanor or a felony if committed by an adult.
 - b. The seriousness of the present or past offenses, other pending charges, the legal status of the juvenile, and other aggravating or mitigating circumstances all pose an unreasonable danger to public safety.
 - c. The release of the juvenile would pose a clear and substantial threat of harm to the juvenile's health or life.
2. § 16.1-249 puts certain restrictions on the place of confinement. No person known or alleged to be under the age of 18 shall be confined in any jail or other facility with adults except under certain circumstances as detailed in the statute.
3. § 16.1-249.G states that if a juvenile 14 years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or juvenile intake officer determines that secure detention is required, the child may be detained not longer than six hours in a temporary lock-up or juvenile ward pending transfer to a juvenile facility. This room or ward may be located in a building with a jail but the room or ward must be separate and removed from adults, must be under constant supervision, and must be approved by the State Board of Corrections for the detention of juveniles.

J. Questioning juveniles

1. When questioning a juvenile in custody, the same rules and procedures used for an adult must be followed. Under no circumstances shall the child, any more than an adult, be compelled to answer questions either by physical force or psychological pressure or deceptions. Consult GO 2-1 for legal guidelines.
 - a. While the officer may be conducting a non-custodial interview, the juvenile may construe it to be a custodial interrogation. When conducting an interview or an interrogation with a juvenile, the officer shall consider the duration of the questioning, and the juvenile's age, mental capacity, education, and experience.
2. No juvenile can be compelled to answer any questions which may tend to incriminate him or her. Juveniles are entitled to the full *Miranda* warnings and these rights must be explained in the presence of parents, circumstances permitting, guardian, or counsel.
3. When questioning a juvenile, officers shall not prolong the interview beyond what is needed in order to complete their investigation. Also, the interrogation shall be handled by one officer if at all possible in order to lessen the chance of the juvenile feeling intimidated or pressured. If an officer interrogates a juvenile of the opposite sex, the officer should request the presence of another officer if one is available.
4. Officers are reminded that the rules governing searches, frisks or pat-downs, reasonable suspicion, and probable cause all apply to juveniles.

K. Written citations/summonses

An officer may use the Virginia Uniform Summons form, just as for an adult, in the following situations:

1. Violation of the traffic laws, including offenses involving bicycles or hitchhiking.
2. Violation of town/county ordinances establishing curfew violations or animal control violations.
3. Violation of game and fish laws.
4. An arrest for any alcohol-related offense where a parent/legal guardian is available to sign the summons.

5. Violation of tobacco laws.

L. Fingerprints and photographs of children

§ 16.1-299 provides that fingerprints and photographs may be taken and filed under the following circumstances. Refer to the statute for guidance on submitting records to the Central Criminal Records Exchange (CCRE) and concerning filing and destruction of these records.

1. May be taken of **any** child who is charged with a delinquent act which, if committed by an adult, is required to be reported to CCRE (pursuant to § 19.2-390).
2. Shall be taken of any child fourteen years of age or older charged with a "violent juvenile felony" (per § 16.1-228).

M. Dissemination/retention of fingerprints and photographs

1. The chief of police/sheriff is responsible for the department's compliance with *Virginia Code* requirements on dissemination and retention of juvenile records including fingerprints and photographs. § 16.1-301 provides that law-enforcement agencies must take precautions to avoid the disclosure of juvenile criminal records to unauthorized persons. Juvenile criminal records are not available for public dissemination unless a juvenile 14 years old or older has been charged with a violent felony, per § 16.1-269.1.
2. Fingerprint cards and photographs shall be destroyed under the following circumstances:
 - a. No petition or warrant is filed within 60 days against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law.
 - b. Within six months of a juvenile or circuit court finding a juvenile not guilty of a violation of the law, pursuant to a court order.
3. Juvenile fingerprint cards and photographs, authorized for retention, shall be separately and securely maintained. Access to these records shall be restricted to official use, and may be viewed by the public only on the authorization of a court order. Destruction of fingerprint cards and photographs shall occur upon notification by the court, per § 16.1-306.

N. Confidentiality of records/release of information

1. § 16.1-301 requires that all law-enforcement agencies take special precautions to ensure that law-enforcement records concerning a child are

protected against disclosure to any unauthorized person. Juvenile records are to be destroyed only upon notification by the court per § 16.1-306.

2. Officers may release, upon request to one another and to other local state or federal law-enforcement officers, current information on juvenile arrests limited to name, address, physical description, date of arrest, and charge. This information may only be used for current investigations.
3. For release of juvenile information to the media, see RR 1-13, Media Relations.
4. The chief of police/sheriff shall ensure that noncriminal records of juveniles, particularly field interview cards, are destroyed annually.

V. PROCEDURES - Child protection

- A. When probable cause exists that a juvenile is without adult supervision at such hours of the night and under circumstances that the officer concludes that a clear and substantial danger to the juvenile's welfare exists, the officer shall:
 1. Take the child into immediate custody.
 2. *[Insert local procedure here; outline contact protocol for a social worker or appropriate authority, including notification of the intake officer of the juvenile court.]*
 3. The officer shall complete an offense/incident report on the matter.

[Note: It may be appropriate in your jurisdiction to address the criteria for detention or shelter care for a child, per § 16.1-248.1, the procedure for a detention hearing, per § 16.1-250, or an emergency removal order, per § 16.1-251.]

VI. STATUS OFFENSES

- A. Investigations of runaways

Officers taking a report of a runaway child shall perform the following:

1. Have the parent or guardian review the original report for its accuracy, particularly for verification that the birthdate and physical description of the child are as stated.
2. Complete an incident report on the matter.
3. Broadcast a lookout for the runaway juvenile.

4. Contact the local runaway shelter (if any) to locate the child.
5. The supervisor shall review the report, complete a Missing Children Information Clearinghouse Report and ensure entry of appropriate information in VCIN and NCIC. The supervisor shall ascertain if the juvenile (if 12 years of age or younger) is endangered and, if so, notify the appropriate authority.

B. Taking runaway into custody

When probable cause exists that a juvenile has run away from home, the officer shall perform the following:

1. Local

- a. Take the child into custody.
- b. Verify runaway youth status.
- c. Notify the intake officer of the juvenile court of the action taken, who will then determine whether to:
 - (1) Place the child in a youth shelter.
 - (2) Refer to the Department of Social Services.
 - (3) Release the juvenile to a parent, guardian, legal custodian, or other person acting for a parent.
 - (4) Release the juvenile.
 - (5) Complete a Virginia Missing Children Information Clearinghouse Report.

In any event, officers shall complete incident reports for any runways taken into custody.

2. Out-of-town

- a. Take the child into custody and verify runaway status with the other jurisdiction. If a detention order is on file, follow the instructions for serving a detention order as discussed below.
- b. Notify the intake officer of the juvenile court of the action taken. The intake officer will then determine what the next step will be. The officer shall:

- (1) Follow the intake officer's instructions for detention or child placement.
- (2) Notify parents that the child is in custody.
- (3) If the child is to be released and the parents cannot respond within a reasonable period of time, then ***[either contact a runaway house, if appropriate in your jurisdiction, or arrange to detain the juvenile].***

C. Truant

1. When custody occurs because a juvenile is a reported truant by school officials, or an officer reasonably determines because of the child's age and circumstances that a juvenile is a suspected truant, the juvenile shall be taken into custody and delivered to the appropriate school personnel and released.
2. The officer shall complete a field interview which includes the name of the person notifying the parent of the truancy and the name of the person to whom the juvenile was released.

VII. DETENTION ORDERS AND WARRANTS

A. Release or detention of juveniles charged with delinquent acts

1. Whenever possible, officers shall release a juvenile to a parent or person acting for a parent, who, (1) is available and willing to provide supervision and care; and (2) promises to bring the juvenile before the court when requested. However, the arresting officer shall seek a detention order or warrant from the judge, intake officer, or magistrate to detain a juvenile whenever there is probable cause to believe that the juvenile committed a felony. ***[Describe how to obtain the warrant when the juvenile court is closed, or the intake officer refuses to issue the petition.]***
2. The officer shall inform the intake officer of arrests in cases of all felonies and Class 1 misdemeanors and whether a parent or custodian of the juvenile has been notified of the arrest.

B. Handling of escapees

1. Immediate custody of escapees:
 - a. Juveniles who are escapees from jail, a detention home, or other institution in which they were placed by order of juvenile court, Child

Protection Services, or other licensed child welfare agency may be taken into immediate custody when:

- (1) A detention order or warrant is known to be on file in this or another jurisdiction.
- (2) An officer has probable cause to believe that a juvenile has escaped or run away from jail, detention home, residential child care facility, or home in which they were placed by the court, the Department of Social Services, or a licensed child welfare agency.

2. Return or placement of escapees

- a. Whether juvenile court is open or closed, the juvenile may be returned and released to the facility from which the juvenile escaped or fled.
- b. When court is open or closed and the juvenile is not released to the facility from which the juvenile escaped or fled, the officer shall contact the intake officer of the court who will determine where the juvenile will be placed.

3. Reporting requirements

- a. The officer shall complete an offense report with applicable supplements.
- b. When a locally-placed juvenile runs away from an unsecured group home, no matter where that home is located, the officer shall:
 - (1) Take an offense report for a missing juvenile (runaway).
 - (2) Complete a Virginia Missing Children Information Clearinghouse Report. The adult reporting the juvenile missing will sign the report.
- c. When an out-of-town-placed juvenile has either escaped from the detention home or run away from a local group home, the officer shall:
 - (1) Notify the administrator reporting the missing juvenile to contact the jurisdiction which placed the juvenile in the facility to make the original report.
 - (2) Complete an offense report including a suspect description.

- d. When an escaped juvenile or one that has run away from a group home is apprehended, the officer shall:
 - (1) Complete a supplement to the original report, if a locally-placed juvenile. (In most cases the juvenile court will have filed already a detention order on the juvenile.)
 - (2) Complete an original offense report including a suspect description, if an out-of-town juvenile from an out-of-town facility.
 - (3) Supplement the offense report and notify the jurisdiction that placed the juvenile of the apprehension, if an out-of-town-placed juvenile escaped or ran away from a local facility.

(Officers shall initiate a search and broadcast a lookout for any juvenile reported missing or escaped from a local facility.)

C. Interviewing of detained juveniles

Officers wishing to interview or question juveniles held **in detention** shall perform the following:

- 1. Inform the juvenile's parent or guardian and the attorney, if any, that an interview will be requested.
- 2. Request permission of the Juvenile and Domestic Relations Court to conduct the interview.
- 3. Arrange the interview, if approved, consistent with detention home rules and regulations.
- 4. Provide a copy of the court's approval to the detention home.
- 5. Before the interview, inform the juvenile of his or her legal rights.

[Note: Some localities have enacted curfew ordinances. For sample policy guidance on curfews, contact the Law Enforcement Services Section, DCJS.]